

ORIGINAL



0000126535

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

2011 JUN 21 P 2:20

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUN 21 2011

DOCKETED BY

IN THE MATTER OF THE COMPLAINT OF THE
BUREAU OF INDIAN AFFAIRS, UNITED
STATES OF AMERICA, AGAINST MOHAVE
ELECTRIC COOPERATIVE, INC. AS TO
SERVICES TO THE HAVASUPAI AND
HUALAPAI INDIAN RESERVATIONS.

DOCKET NO. E-01750A-05-0579

PROCEDURAL ORDER
GRANTING JOINT REQUEST TO
VACATE HEARING AND SET
PROCEDURAL CONFERENCE

BY THE COMMISSION:

On December 10, 2011, the Commission issued Decision No. 72043 in this docket.

On December 30, 2010, Mohave Electric Cooperative, Inc. ("Mohave" or "Respondent") timely filed an Application for Rehearing of Decision No. 72043 pursuant to A.R.S. § 40-253 ("Application for Rehearing").

On January 11, 2011, the Bureau of Indian Affairs, United States of America, ("BIA" or "Complainant") filed a response to Mohave's Application for Rehearing.

On January 18, 2011, the Commission voted to grant Mohave's Application for Rehearing. The Commission ordered the Hearing Division to issue a Procedural Order scheduling a procedural conference for the purpose of setting a procedural schedule for the rehearing proceeding, and to prepare a Recommended Order on Rehearing for Commission consideration.

A Procedural Order was issued on January 18, 2011, setting the procedural conference to commence on January 25, 2011.

A procedural conference was held as scheduled on January 25, 2011. BIA and Mohave appeared through counsel. Mohave requested that a date not be set for rehearing Decision No. 72043, as Mohave and BIA were attempting to resolve their disputed issues, but that a status conference be set in 45 days instead, at which time Mohave and BIA could report on their progress in reaching a resolution on the issues Mohave raised in its December 30, 2010, Application for Rehearing. Counsel for BIA indicated that BIA was amenable to Mohave's proposal.

1 On January 26, 2011, a Procedural Order was issued setting a procedural status conference to
2 commence on March 17, 2011, for the purpose of allowing BIA and Mohave to provide a status
3 update on their settlement discussions in this matter.

4 By Procedural Order issued March 14, 2011, the procedural status conference scheduled for
5 March 17, 2011, was continued to March 31, 2011, at the request of BIA.

6 A procedural status conference convened as scheduled on March 31, 2011. Complainant,
7 Respondent, and Staff appeared through counsel. Mohave and BIA reported that they were
8 continuing to work toward a resolution of the issues, but had not yet reached resolution, and
9 proposed that a second status conference be set 60 days in the future. BIA and Mohave were
10 encouraged to continue their efforts to settle their disputes, were informed that a Procedural Order
11 would be issued setting a date for the rehearing, and were directed to file within 10 days, either
12 jointly or separately, their proposed procedural schedule for the rehearing proceeding.

13 On April 15, 2011, Complainant and Respondent jointly filed a Proposed Procedural Schedule
14 for Rehearing.

15 On April 19, 2011, a Procedural Order was issued adopting BIA and Mohave's proposed
16 procedural schedule and setting a date of July 25, 2011, for the Rehearing of Decision No. 72043.

17 On May 5, 2011, the Commission issued Decision No. 72290 in this docket. Decision No.
18 72290 suspended the requirement of Decision No. 72043 that Mohave place a meter at Long Mesa
19 and recommence reading the meter at Long Mesa within ten days. The requirement was suspended
20 pending the rehearing process for Decision No. 72043 and until further order of the Commission.

21 On May 20, 2011, as required by the April 19, 2011, Procedural Order, BIA and Mohave
22 jointly filed a status report on their settlement negotiations. The filing stated that the parties were
23 hopeful that a settlement could be reached, but that they could not at that time report the terms of a
24 completed settlement. BIA and Mohave requested that the deadlines set in the April 19, 2011,
25 Procedural Order remain in place, and stated that they would continue negotiations and notify the
26 Commission if a settlement was reached.

27 On June 20, 2011, BIA and Mohave filed a Joint Notice of Settlement and Request for
28 Procedural Conference. The filing stated that BIA and Mohave have reached general agreement on

1 the primary points of the terms of a Memorandum of Agreement ("Memorandum") that will form the
2 basis of formal settlement documentation, and that they expect to sign the Memorandum shortly. The
3 filing further states that additional time is needed to transform the items in the Memorandum into
4 formal documentation carrying forward the intent of the Memorandum, as well as to obtain approvals
5 of the United States Department of the Interior, and of Mohave's Board of Directors.

6 BIA and Mohave jointly request that the procedural deadlines for the rehearing be vacated;
7 that the July 25, 2011, rehearing be vacated; and that a procedural conference be set to take place in
8 approximately 30 days at which the parties will inform the Commission of the status of the settlement
9 documentation process, and resolve any remaining procedural issues.

10 BIA and Mohave's joint request is reasonable and should be granted. The hearing and
11 associated procedural deadlines will be vacated, and a procedural conference will be set in its place.

12 As ordered by the Commission on January 18, 2011, the Hearing Division will prepare a
13 Recommended Order on Rehearing for Commission consideration. BIA, Mohave, and Staff should
14 therefore be prepared to discuss at the procedural conference appropriate means for resolution of
15 remaining procedural issues prior to the preparation of the Recommended Order.

16 BIA and Mohave should be required to jointly file a copy of the Memorandum in this docket
17 upon its signing.

18 IT IS THEREFORE ORDERED that pursuant to the joint request of Mohave Electric
19 Cooperative, Inc. and the Bureau of Indian Affairs, United States of America, the **hearing** currently
20 set to commence on **July 25, 2011**, for rehearing of the issues set forth in Mohave Electric
21 Cooperative, Inc.'s Application for Rehearing is hereby **vacated**.

22 IT IS FURTHER ORDERED that **all pending procedural filing deadlines associated with**
23 **the July 25, 2011, rehearing are hereby vacated.**

24 IT IS FURTHER ORDERED that Mohave Electric Cooperative, Inc. and the Bureau of
25 Indian Affairs, United States of America **shall jointly file in this docket a copy of the**
26 **Memorandum of Agreement** referenced in their June 20, 2011, filing within five calendar days of
27 its signing.

28 IT IS FURTHER ORDERED that a **procedural conference** shall be held on **July 25, 2011**,

1 commencing at **10:00 a.m.**, or as soon thereafter as practicable, at the Commission's offices, 1200
2 West Washington Street, **Hearing Room 1**, Phoenix, Arizona, for the purpose of allowing Mohave
3 Electric Cooperative, Inc. and the Bureau of Indian Affairs, United States of America to inform the
4 Commission of the status of their settlement agreement.

5 IT IS FURTHER ORDERED that Mohave Electric Cooperative, Inc., the Bureau of Indian
6 Affairs, United States of America, and the Commission's Utilities Division shall each be prepared at
7 the procedural conference to discuss appropriate means for resolving the remaining procedural issues
8 associated with the rehearing proceeding.

9 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
10 31 and 38 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

11 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
12 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
13 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
14 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
15 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
16 Law Judge or the Commission.

17 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
18 Communications) continues to apply to this proceeding and shall remain in effect until the
19 Commission's Decision in this matter is final and non-appealable.

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

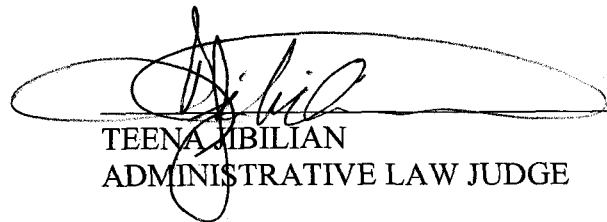
26 ...

27 ...

28 ...

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

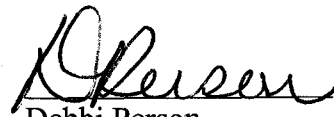
DATED this 21st day of June, 2011.


TEENA JIBILIAN
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered/faxed this 21st day of June, 2011 to:

Steven A. Hirsch
Rodney W. Ott
Landon W. Loveland
BRYAN CAVE LLP
Two North Central Avenue, Suite 2200
Phoenix, AZ 85004-4406
Attorneys for Mohave Electric Cooperative, Inc.

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

By: 
Debbi Person
Assistant to Teena Jibilian

Dennis K. Burke
Mark J. Wenker
U S ATTORNEY, DISTRICT OF ARIZONA
40 North Central Avenue, Suite 1200
Phoenix, AZ 85004-4408
Attorneys for the Bureau of Indian Affairs,
United States of America

Janice Alward, Chief Counsel
Wesley Van Cleve, Attorney
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Steven M. Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007